



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/842,449 | 04/26/2001 | Christopher Zak | 89283.051401 | 7555 |

7590 04/08/2005

JAECKLE FLEISCHMANN & MUGEL. LLP
39 State Street
Rochester, NY 14614-1310

EXAMINER

BAUTISTA, XIOMARA L

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2179

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/842,449

Applicant(s)

ZAK ET AL.

Examiner

X L Bautista

Art Unit

2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 66-68 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-65, drawn to gathering electronic data for emergency medical services and displaying graphical representations of the human body, classified in class 715, subclass 835.

II. Claims 66-68, drawn to manually recording call request information related to examination a patient, classified in class 715, subclass 700.

2. The inventions are distinct, each from the other because of the following reasons: Inventions I and II are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because invention I is related to gathering electronic data and invention II is related to manually recording data, not necessarily in a computer. The subcombination has separate utility such as one can be accomplished with a computer and the other can be accomplished using only a pen and paper.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. Newly submitted claims 66-68 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 1-20 and 22-65 are drawn to a method of manually recording patient data.

5. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 66-68 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection

Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. **Claims 1-8 and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by *Evans* (US 5,924,074).**

Claims 1 and 6:

Evans discloses a graphical user interface displaying a (selectable) graphical representation of the human hand. The graphical representation facilitating entry of all information gathered on a medical record (fig. 8; col. 2, lines 20-65); means for displaying graphical representations (fig. 5); means for selecting data to be entered and stored from selections displayed on a screen (col. 2, lines 20-65); and means for storage of entered data in the hand held computer (col. 2, lines 45-55).

Claims 2-4:

See claim 1. Evans teaches that the graphical user interface of the human body comprises a graphical representation of one visible part of the human body (male/female).

Claims 5 and 8:

See claim 1. Evans teaches one orientation of visible a part of the human body.

Claims 7 and 37:

Evans teaches means for selecting a graphical representation of the human body, and a software program for determining the location of a pen stylus on a touch sensitive screen (col. 5, lines 60-65; col. 14, line 62 – col. 15, line 7).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 9-20, 22-26, 39-43, 45 and 46 are rejected under 35 U.S.C.

103(a) as being unpatentable over *Evans* (US 5,924,074) and *Chikovani et al* (US 6,383,135).

Claims 9 and 11:

Evans does not teach associating a graphical representation of a first human

body part with a graphical representation of a selected second body part. However, Chikovani discloses a method that allows fast self-evaluation of patient medical problems. Chikovani teaches means for associating a graphical representation of a first human body part (23a), having a selected second body part, with a graphical representation of the selected second body part (23c). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include Chikovani's teaching of associating graphical representation of a first human body part with a selected second body part in Evans' graphical user interface because it enables users to associate symptoms, pain, illnesses, etc. with/between specific body parts.

Claim 10:

See claim 1. Evans teaches one orientation of visible a part of the human body.

Claim 12:

Chikovani teaches a computer program means for associating a graphical representation of a human body part with a stored identifying text (col. 4, line 62 – col. 5, line 24).

Claim 13:

Evans teaches a graphical user interface (GUI) of the human body comprising

means for selecting one or more patient complaints from the checklist (col. 6, lines 12-33).

Claim 14:

Evans teaches the GUI of the human body comprises means for selecting patient complaints from the checklist (col. 6, lines 12-33).

Claim 15:

Evans teaches the GUI of the human body comprises a checklist of observed conditions (col. 6, lines 2-67; col. 7, lines 1-4).

Claim 16:

Evans teaches the GUI of the human body comprises means for selecting one or more observed conditions from the checklist (fig. 3; col. 5, lines 554-67; col. 6, lines 1-9).

Claim 17:

Evans teaches means for selecting patient complaints from the checklist; and a software program for determining the location of a pen stylus on a touch sensitive screen (col. 5, lines 60-65; col. 14, line 62 – col. 15, line 7).

Claims 18 and 19:

See claim 13.

Claim 20:

Evans teaches the graphical representations of one or more orientations of visible part of the human body comprises a front view, a right side view, a left side view, and a rear view (fig. 8).

Claim 22:

Evans teaches the GUIO of the human body comprises forms for entry of medical emergency information (fig. 19, 310).

Claim 23:

Evans teaches an emergency call information header area, a form selection area, a form details area, and a form paging area (figs. 19-21).

Claim 24:

Evans teaches form selection area comprising buttons for selection of each form for display and use (fig. 19, 310).

Claim 25:

Evans teaches the form of details comprising an area for graphical representation of the human body (fig. 8, 185).

Claim 26:

Evans teaches the form details area comprising drop down pick lists of selection alternatives for single entry user selection (fig. 3, 127), radio buttons of

selection alternatives for single entry user selection (fig. 3, provider), and check boxes of selection lists for single entry user selection for each choice required (fig. 19).

Claims 39-42, 45 and 46:

Evans teaches a software component for report printing via either wireless infrared transmission ports or standard serial cables to a variety of mutually compatible printers (col. 13, lines 5-29).

Claim 43:

Evans teaches a software component for transfer of medical emergency data to another computer system (col. 9, line 60 – col. 10, line 7).

10. Claims 27-36, 44 and 47-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Evans/Chikovani* and *Segal et al* (US 2001/0041991).

Claim 27:

Evans teaches drop down pick lists comprising drop down pick-lists for patient data entry but does not teach the items listing for selection vary based upon patient's age as previously entered. However, Segal discloses items listing for selection that vary based upon patient's age as previously entered (page 3, pg. 0021). Thus, it would have been obvious to a person having ordinary skill in the art at the time of invention to include Segal's teachings in Evans/Chikovani's graphical user interface

because the menus are changed depending on the patient's age, facilitating data entry and data association.

Claim 28:

Evans teaches forms (fig. 5, 154, 191, 194) and billing forms for entry of billing information for the patient (col. 1, lines 25-30), problems forms for entry of details of the patient problem for which the emergency call was made and focal patient complaints (fig. 5, 152), exam forms for entry of patient exam findings, and vital forms for entry of patient vital signs (col. 4, line 64 – col. 5, line 5).

Claim 29:

Segal teaches call forms for entry of information concerning an emergency medical call. Evans teaches a form selection area (fig. 5, 154, 191, 193), a problem details area (fig. 5, 152; fig. 6, 162), area for graphical representations of parts of the human body (fig. 8, 186), and a form paging area (fig. 8).

Claims 30 and 53:

Evans teaches problems form comprising motorized vehicle crash history forms for recording information about a motor vehicle crash involving the emergency medical patient (col. 9, 0112).

Claim 31:

Evans teaches vitals for comprising icons for rapid entry of normal vital sign

and physical exam findings (col. 4, line 64 – col. 5, line 5).

Claim 32:

Segal teaches the emergency vehicle. Evans teaches the call form comprising quick entry icons for rapid entry of call event times (col. 2, lines 25-30), a vehicle type drop down menu providing for single entry selection of a mode of response to the scene of the emergency, and a call type drop down menu providing for single entry selection of a type of call (fig. 3, 127).

Claim 33:

Segal teaches an entry for ambulance, helicopter, airplane (page 8, pg. 0112; page 12, pg. 0147).

Claim 34:

Evans teaches patient forms for entry of patient demographic information (col. 9, lines 7-15), past medical history forms for entry of information concerning a patient's past medical history (col. 5, lines 12-22), and patient medications forms for entry information concerning patient medications (co. 2, lines 53-65).

Claim 35:

Evans teaches treatment forms for entry of patient treatment by emergency medical technicians and disposition form for entry of information concerning the disposition of emergency call (col. 2, lines 55-60); and an integrated medical drug

reference guide, and a drug treatment form to facilitate rapid documentation of medication administration, routes and quantities (col. 2, lines 55-60).

Claim 36:

Evans teaches crew forms for entry of information concerning an emergency medical services crew (col. 2, lines 25-30), review form (col. 2, lines 50-57); notes forms for entry of general notes (fig. 19, progress notes), protocols form for consulting protocols to be followed during the emergency call, and help screens for guiding emergency medical technicians on the use of the invention (fig. 6).

Claim 38:

Segal teaches software components supporting handwriting recognition, software components supporting numerical data entry, software components supporting signature capture, and software component for integrated signature capture for collection of required patient and crew signatures (page 1, pg. 0006).

Claim 44:

Segal teaches the medical emergency site electronic data. Evans teaches a processor (col. 12, lines 55-67), a main memory connected to the processor, a storage subsystem connected to the processor for storage of medical reference guides and databases, and retention of medical emergency site electronic data (col. 10, lines 1-8); a display subsystem connected to the processor and to the main memory, for

displaying information to a user (col. 5, lines 10-25), a touch sensitive screen connected to the display subsystem and to the processor, following a user to select displayed information, a pen stylus for selecting information displayed on a touch sensitive screen, and computer program means stored and operated in the hand held computer for gathering, retaining and transmission emergency site medical data (col. 14, line 62 – col. 15, line 7).

Claim 47:

Segal teaches means for generating an optional motorized vehicle crash history form for recording information about a motor vehicle carrying the emergency medical patient (page 9, pg. 0112), means for supporting handwriting recognition, signature capture and numerical data entry via the graphical user interface (page 1, pg. 0006), means for flexible patient data entry via the graphical user interface based upon patient's age (page 3, pg. 0021), multilingual means for documenting via the graphical user interface a patient's refusal of care and means for integrated signature capture via the GUI for collection of required patient and crew signatures (page 1, pg. 0006; page 3, pg. 0013-0014). Evans teaches a GUI means for simplifying documentation of focal patient complaints and physical exam findings (fig. 5, 152); means for presenting a drug reference guide via the GUI (col. 2, lines 55-60); means for rapid entry via the GUI of normal vital sign and physical exam findings (col. 4,

line 64 – col. 5, line 5); means for versatile report printing via either wireless infrared transmission ports or standard serial cables to a variety of mutually compatible printers (col. 13, lines 5-29); and means for recording drug treatment via the GUI to facilitate rapid documentation of medication administration, routes and quantities (col. 2, lines 55-60).

Claim 48:

Evans teaches providing access to medical reference databases on a hand held computer using the GUI and supporting a GUI for entry and storage of emergency related information on the hand held computer (col. 2, lines 45-65); retaining information entered by the user during physical movement and storage of the hand held computer and transferring the information from the hand held computer to storage at the emergency treatment facility (col. 2, lines 55-60).

Claims 49 and 63-65:

Segal teaches collecting emergency call related information from the user. Evans shows collecting patient related information from the user (col. 2, lines 20-35); collecting medical problem related information from the user (fig. 5, 152); collecting vital signs information from the user (fig. 5, 152); collecting vital signs information from the user (col. 4, line 64 – col. 5, line 5); collecting treatment information from the user (col. 2, lines 55-60); and collecting billing information from the user (col. 1,

lines 25-60).

Claim 50:

Evans teaches a plurality of forms. Segal teaches presenting to the user forms requesting entry of emergency call related information, and storing in mass storage the emergency call related information submitted by the user (pages 1 and 3, pg. 0026 and 0029).

Claim 51:

Evans teaches presenting to the user forms requesting the entry of patient prior medical history information and storing in mass storage the patient prior medical history information submitted by the user (col. 5, lines 12-22); presenting to the user forms requesting the entry of patient medications information and storing in mass storage the patient medications information submitted by the user (col. 2, lines 53-65); presenting to the user forms requesting the entry of patient examination information, and storing in mass storage the patient examination information submitted by the user (col. 5, lines 42-50).

Claim 52:

Segal teaches collecting motor vehicle crash information from the user (col. 9, pg. 0112); Evans teaches collecting patient complaint information from the user (col. 5, lines 29-38).

Claim 54:

Evans teaches displaying a graphical representation of a part of the human body; accepting a selection by the user of an affected part of the human body, associating the selection of the affected part of the body with the graphical representation of the affected part of the body; storing in mass storage the designation of the affected part of the body (fig. 8; col. 7, lines 28-40); and collecting the complaints reported by the patient for the affected part of the body; and storing in mass storage the patient complaints and observed symptoms (col. 5, lines 29-38).

Claim 55:

Evans teaches presenting to the user forms requesting the entry of vital signs information; and storing in mass storage the vital signs information submitted by the user (col. 4, line 64 – col. 5, line 5).

Claim 56:

Evans teaches presenting to the user forms requesting the entry of treatment information, and storing in mass storage the treatment information submitted by the user (col. 5, lines 55-65).

Claim 57:

Evans teaches presenting to the user forms requesting the entry of billing information; and storing in mass storage the billing information submitted by the

user (col. 1, lines 25-30).

Claims 58 and 59:

Evans teaches presenting to the user forms requesting the entry of background information; and storing in mass storage the background information submitted by the user (col. 6, lines 55-65).

Claim 60:

Evans teaches emergency crew related information (col. 2, lines 25-30) and patient disposition information, case review information, and notes (col. 2, lines 50-57; fig. 19, progress notes).

Claim 61:

Evans teaches providing access to medical reference databases comprising the step of providing access to a medical drug reference guide (col. 2, lines 55-60).

Claim 62:

Evans teaches providing access to medical reference databases comprising the step of providing access to a medical protocol database (col. 2, lines 45-65).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

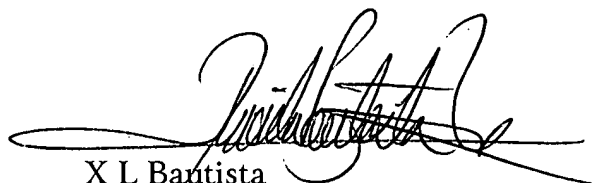
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to X L Bautista whose telephone number is (571) 272-4132. The examiner can normally be reached on Monday-Thursday 8:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on (757) 272-4136. The fax phone number for the organization where this application or proceeding is

assigned is 703-872-9306.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



X L Bantista
Primary Examiner
Art Unit 2179

xlb
01 April 2005